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Lightbonding.com, Inc.  
CC Docket No. 98-147  
CC Docket No. 96-98  
October 12, 2000

**BEFORE THE  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Deployment of Wireline Services Offering	)	CC Docket No. 98-147
Advanced Telecommunications Capability	)	
	)	
and	)	
	)	
Implementation of the Local Competition	)	CC Docket No. 96-98
Provisions of the	)	
Telecommunications Act of 1996	)	

**COMMENTS OF LIGHTBONDING.COM, INC.**

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Dated: October 12, 2000

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LIGHTBONDING.COM, INC.**

LightBonding.com, Inc. ("LightBonding.com"), by undersigned counsel and pursuant to the Federal Communications Commission's ("Commission") *Order on Reconsideration and Second Further Notice of Proposed Rulemaking in CC Docket No. 98-147 and Fifth Further Notice of Proposed Rulemaking in CC Docket No. 96-98 ("Collocation Remand NPRM")*, hereby submits its Comments in the above-captioned proceeding.<sup>1</sup> LightBonding.com believes that the Commission should clarify that competitive local exchange carriers ("CLECs") are entitled under section 251 of the Telecommunications Act of 1996 (the "Act")<sup>2</sup> to interconnect via cross-connects with other collocated carriers, even in situations where they do not directly interconnect with incumbent local exchange carriers ("ILECs"). This

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<sup>1</sup> *Deployment of Wireline Service Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Doc. Nos. 96-98 & 98-147, Order on Reconsideration and Second Further Notice of Proposed Rulemaking in CC Docket No. 98-147 and Fifth Further Notice of Proposed Rulemaking in CC Docket No. 96-98, FCC 00-297 (*"Collocation Remand Order and NPRM"*).

<sup>2</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, *codified at* 47 U.S.C. § 151 *et. seq.*

determination is fully supported by the Act and will help ensure the development of competition for new advanced services as intended by the Act.

## **I. Background**

LightBonding.com is in the process of deploying fiber optical networks in major metropolitan areas throughout the country. LightBonding.com's networks will employ software and network architecture designed to optimize the distribution of multimedia services between high-volume users of users of broadband connectivity. Such users include all providers of next generation internet, transport, and content services. These users include internet service providers ("ISPs"), competitive local exchange carriers ("CLECs"), incumbent local exchange carriers ("ILECs"), interexchange carriers ("IXCs"), application service providers ("ASPs"), and all other high-volume users of broadband connectivity.

LightBonding.com welcomes the Commission's efforts to ensure that the provisioning and availability of collocation space in ILEC premises does not remain a bottleneck delaying the deployment of facilities-based local telecommunications services. LightBonding.com agrees with the Commission that promoting the availability and timely provisioning of collocation space is necessary for the development of robust competition. However, LightBonding.com believes that the Commission must clarify that CLECs have a right to gain access to ILEC collocation facilities for the purpose of interconnecting with other collocated carriers as a reasonable condition of collocation under Section 251(c)(6) of the Act. Keeping CLECs from freely interconnecting with one another on ILEC premises will lead to discriminatory results and will materially delay the development of robust competition for telecommunications services. Furthermore, LightBonding.com fully supports the Commission's approach of permitting

collocation of any equipment necessary to support the wide variety of telecommunications services currently available or under development. LightBonding.com fully supports the positions of other CLECs in this proceeding concerning collocation generally. In many situations, LightBonding.com will directly interconnect with ILECs while collocated in their central offices. In these initial Comments LightBonding.com concentrates on the issues related CLECs access to collocation and cross-connection where the CLEC does not directly interconnect with the ILEC. However, LightBonding.com reserves the right to address other issues in reply comments as necessary.

## **II. Cross-Connection Is Crucial For The Development of High Capacity Advanced Services**

The inability of CLECs to collocate on ILEC premises for the purpose of cross-connecting with other CLECs will effectively prohibit many CLECs from having access to advanced optical network and transport services currently under development. Indeed, many ILECs are excluding some CLECs that provide advanced network and transport services from their premises, even though their own fiber transport facilities are either not available or cannot provide the necessary service options or quality that CLECs require. This despite the fact that the Commission has recognized that competitive transport is not sufficiently available to meet current CLEC requirements.<sup>3</sup>

Absent the ability to interconnect with other CLECs on ILEC premises, CLECs that require access to advanced network and transport services must either self-provision transport, make arrangements to meet outside the ILEC premises, or rely upon ILEC transport. As the

Commission has recognized, the cost and delay associated with self provisioning transport facilities materially limits the availability of this as a transport option.<sup>4</sup> It is not even clear what rights collocated carriers have to self-provision fiber connectivity for transport or interconnection with other carriers outside the ILEC premises. Furthermore, forcing CLECs to interconnect outside the premises of the ILEC, where CLECs necessarily "congregate," is not only inefficient but also introduces miles of redundant and costly transport along with technical problems impacting network performance. Thus, in the absence of access to competitive fiber services, CLECs are left with little choice but to rely upon the ILECs as the only available transport provider with all the attendant possibilities of price, quality, and provisioning discrimination.

In addition to the cost concerns associated with prohibiting indirect interconnection on ILEC premises, lack of reliable access to advanced networks and services by CLECs collocated in ILEC facilities will delay the development of these services. Today, broadband optical networks are capable of the equivalent of OC-192 and higher transmission levels. However, absent competitive access to ILEC unbundled network elements and collocation at ILEC premises - - which are de facto aggregation points for advanced service traffic - - consumers of such services will be deprived of the full benefit of advanced services.

### **III. The Act Permits CLECs To Collocate On ILECs Premises For The Purpose Of Interconnecting With Each Other**

#### **A. Cross-Connects are "Necessary" Under Section 251(c)(6)**

Under section 251(c)(6) of the Act, cross-connects are "equipment necessary for interconnection or access to unbundled network elements," even under the most restrictive

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<sup>3</sup> *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of*

interpretation of the term "necessary."<sup>5</sup> A cross-connect is "a connection scheme between cabling runs, subsystems, and equipment using patch cords or jumpers that attach connecting hardware on each end."<sup>6</sup> Put more simply, cross-connects are the cables connecting telecommunications networks when they are in close proximity. As such, they are the most basic equipment necessary for interconnection. Without cross-connects between CLECs, there can be no interconnection on an ILEC's premises between competitive carriers other than through the ILEC's network.

**B. Section 251(c)(6) Permits CLECs to Interconnect With One Another on ILEC Premises**

The structure, plain language, and purpose of the Act make clear that section 251(c)(6) requires that incumbents allow competitive providers to interconnect with each other directly while collocated in the ILEC facilities.<sup>7</sup> The first three subsections of section 251 are structured such that each is narrower than the preceding subsection. Section 251(a)(1) specifically requires that each telecommunications carrier allow interconnection, whether direct or indirect, with the facilities of other carriers.<sup>8</sup> Section 251(c)(2) requires that ILECs "provide,

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1996, CC Docket No. 96-98, FCC 99-238, ¶ 321 (1999) ("UNE Remand Order").

<sup>4</sup> *Id.* at ¶ 321.

<sup>5</sup> 47 U.S.C. § 251(c)(6).

<sup>6</sup> *Collocation Remand Order and NPRM* at n. 203.

<sup>7</sup> *See, e.g., FDA v. Brown & Williamson Tobacco*, 120 S.Ct. 1291, 1301 (2000) ("It is a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme."). LightBonding.com believes that nothing in Section 251(c)(6) limits interconnection to only the ILEC network and that the Court of Appeals erred when it expressed its view to the contrary *See* 205 F.3d at 423 ("Section 251(c)(6) is focused solely on connecting new competitors to [I]LECs' networks.").

<sup>8</sup> 47 U.S.C. § 251(a)(1)

for the facilities and equipment of any requesting telecommunications carrier, interconnection with the exchange carrier's network."<sup>9</sup>

It is significant that 251(c)(2) does not limit the ILECs' interconnection requirement only to the duty to provide "direct interconnection" created under section 251(a)(1), but instead refers broadly to "interconnection."<sup>10</sup> In addition, the reference to "interconnection" contained in section 251(c)(6) is not qualified in any way that would suggest that the term is limited only to the duty to provide direct interconnection created under section 251(a)(1).<sup>11</sup> In fact, the context of the term "interconnection" in section 251(c)(6) indicates that Congress intended an interpretation requiring that equipment be collocated for reasons more broad than simply to interconnect to the ILEC network. Specifically, the inclusion of the phrase "or access to unbundled network elements" after "interconnection" broadens the scope of equipment that may be collocated in the ILEC premises beyond that necessary solely for interconnection.

Thus, the drafters of the legislation understood that CLECs would need to collocate equipment in the ILEC premises for a broad variety of purposes. As such, section 251(a)(1) creates a duty for all carriers to allow interconnection either directly or indirectly and this duty is encompassed in, and in no way narrowed by section 251(c)(6). Had Congress intended to restrict the scope of permissible collocation required in the ILECs' premises under section 251(c), it would have also expressly limited the duty it had already created in Section 251(a)(1) to interconnect both directly and indirectly. Accordingly, the Commission should not interpret

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<sup>9</sup> *Id.* at § 251(c)(2). Section 251(b) sets forth the obligations of all local exchange carriers and does not address interconnection. *Id.* at § 251(b).

<sup>10</sup> *Id.*

<sup>11</sup> *National Credit Union Admin. v. First Nat. Bank & Trust*, 118 S.Ct. 927, 939 (1998) (Similar language contained in the same section of a statute must be given a consistent meaning.).

the general term contained in section 251(c)(2) as having a meaning unrelated to the term employed in section 251(a)(1).<sup>12</sup> Rather, the Commission should read the two terms in harmony, and given the context of section 251, the best reading of section 251(c)(2) is that an ILECs' duty to interconnect is not limited to direct interconnection, but encompasses both direct and indirect interconnection.<sup>13</sup>

**C. Section 251(c)(6) Requires that ILECs Provide Collocation on Reasonable and Nondiscriminatory Terms**

The duty created in section 251(c)(6) to provide collocation on reasonable and nondiscriminatory terms indicates that ILECs must permit CLECs to collocate and cross-connect with CLECs on ILEC premises. The Commission must interpret the obligation to interconnect so as to avoid nullifying these terms.<sup>14</sup> Permitting ILECs to interconnect with all competitive carriers collocated on ILEC premises while depriving collocated competitive carriers the right to cross-connect to other competitive carriers on ILEC premises is unreasonable and blatantly discriminatory. This is the very type of unreasonable and competition-damaging discrimination that the Act prohibits. In addition, it would also make it unnecessarily difficult for CLECs to uphold their duty to interconnect under section 251(a)(1). As a result, the interpretation that does not create internal inconsistencies within the text of the statute is that under section 251(c)(6), the ILECs cannot refuse cross-connection to any collocating CLEC. Any contrary rule would

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<sup>12</sup> *Weyerhaeuser Steamship v. U.S.*, 83 S.Ct. 926, 928 (1963).

<sup>13</sup> *See FDA v. Brown & Williamson*, 120 S.Ct. at 1301.

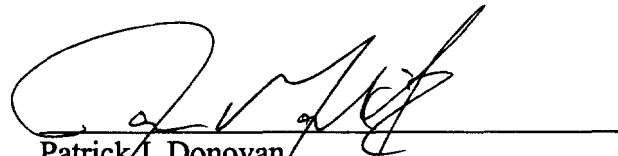
<sup>14</sup> *Id.* (Statutes are to be interpreted as a symmetrical and coherent regulatory scheme in which all parts must fit, if possible, into an harmonious whole); *see also U.S. v. Menasche*, 75 S.Ct. 513, 520 (1955) (Every clause and word of a statute must be given effect, if possible).

violate the Act's basic purpose of providing CLECs with nondiscriminatory access to collocation.<sup>15</sup>

**V. Conclusion**

Accordingly, for the foregoing reasons the Commission should clarify that the Act requires ILECs to permit competitive providers to access ILEC central offices and interconnect with collocated CLECs without having to separately interconnect with the ILEC or directly access ILEC UNEs.

Respectfully submitted,



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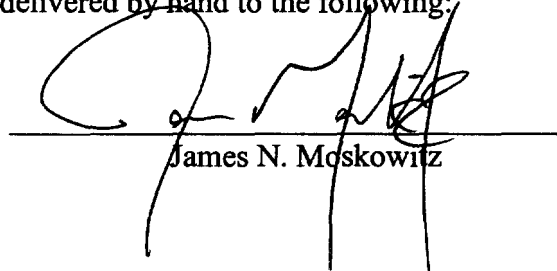
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<sup>15</sup> S. CONF. REP. No. 104-230, at 73 (1996).

**CERTIFICATE OF SERVICE**

I, James N. Moskowitz, hereby certify that on this 12<sup>th</sup> day of October, 2000 the foregoing Comments of Lightbonding.com, Inc. were delivered by hand to the following:



James N. Moskowitz

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